

### REMARKS/ARGUMENTS

Claims 1, 4, 9, 13-14, 16, 20-21, 38-40 remain in this application. Claims 1 and 38 have been amended. Claims 4 and 40 were cancelled and aspects thereof incorporated into amended claims 1 and 38. No new matter has been added. Claims 2-3, 5-8, 10-12, 15, 17-19, and 22-37 were previously cancelled.

The cardinal numbered paragraphs below correspond to those in the official action.

2. The specification at paragraph [0046] was amended to correct a conceptual error specifically deleting the disclosed amino-silane, which is not believed to be a cationic polymer.

#### **§ 103 Rejections**

4. Claims 1, 4, 9, 13-14, 16, and 20-21 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,824,866 (*Glazer*) in view of U.S. Patent No. 5,885,431 (*Renfrew*). The rejection is respectfully traversed.

*Glazer's* disclosures of a substrate binding agent and polymer do not mention a cationic polymer such as polylysine. *Glazer* mentions a silane and an organic polymer (col. 7, lines 11-17, and col. 13, lines 27-38), where the silane is capable of linking with a polymer. Neither *Glazer* nor *Renfrew* teach or suggest a substrate as recited in present claim 1 or claim 38 having a cationic polymer binding agent. Applicant respectfully notes that the recited "binding layer" refers to binding of biological analytes and not to the binding of the binding agent to the surface.

5. Claim 14 was rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over *Glazer*, in view of *Renfrew*, as applied to claim 1 above and further in view of U.S. Patent No. 5,990,302 (*Kuroita*). The rejection is respectfully traversed.

The above remarks regarding *Glazer* and *Renfrew* are incorporated here by reference. The further combination with *Kuroita* does not cure the deficiency of the primary reference mentioned above.

6. Claims 38 and 40 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over *Glazer*, in view of U.S. Patent No. 6,129,603 (*Sun*). The rejection is respectfully traversed.

The above remarks regarding *Glazer* are incorporated here by reference. The combination of *Glazer* with *Sun* does not cure the deficiency of the primary reference.

7. Claim 39 was rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over *Glazer*, in view of *Sun*, as applied to claim 38 above and further in view of *Renfrew*. The rejection is respectfully traversed.

The above remarks regarding *Glazer* and *Renfrew* are incorporated here by reference. The combination of *Glazer*, with *Sun*, and *Renfrew* does not cure the deficiency of the primary reference.

8. Claims 1, 4, 13, 22, 25, 31, and 38 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over U.S. Patent No. 6,306,348 (*Havens*), in view of *Renfrew*. The rejection is respectfully traversed.

The above remarks regarding *Renfrew* are incorporated by reference. *Havens* also does not mention a cationic polymer binding agent and does not cure the deficiency of the primary reference.

9. Claim 14 was rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over *Havens*, in view of *Renfrew*, and further in view of *Kuroita*. The rejection is respectfully traversed.

The above remarks regarding *Havens*, *Renfrew*, and *Kuroita* are incorporated here by reference. None of the references, alone or in combination, mention a cationic polymer binding agent disposed in the substrate as recited in independent claims 1 and 38 nor dependent claim 14.

10. Claim 38 was rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over *Havens*, in view of *Sun*. The rejection is respectfully traversed.

The above remarks regarding *Havens* and *Sun* are incorporated here by reference. None of the references, alone or in combination, mention a cationic polymer binding agent disposed in the substrate as recited in independent claim 38.

11. Claim 39 was rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over *Havens*, in view of *Sun*, as applied to claim 38 above and further in view of *Renfrew*. The rejection is respectfully traversed.

The above remarks regarding *Havens*, *Sun*, and *Renfrew* are incorporated here by reference. None of the references, alone or in combination, mention a cationic polymer binding agent disposed in the substrate as recited in independent claim 38.

According to the §103 rejections are overcome, or alternatively are moot, in view of the claim amendments.

#### **Conclusion**

Based upon the above amendments, remarks, and papers of records, applicant believes the pending claims of the above-captioned application are in allowable form and patentable over the prior art of record. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

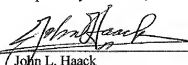
Applicant believes that no extension of time is necessary to make this Reply timely. Should applicant be in error, applicant respectfully requests that the Office grant such time extension pursuant to 37 C.F.R. § 1.136(a) as necessary to make this Reply timely, and hereby authorizes the Office to charge any necessary fee or surcharge with respect to said time extension to the deposit account of the undersigned firm of attorneys, Deposit Account 03-3325.

Appl No.: 10/774820  
Response dated: February 10, 2009  
Office Action dated: December 2, 2008

Please direct any questions or comments to John L. Haack at (607) 974-3673.

Respectfully submitted,

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